

**REMARKS/ARGUMENTS**Claim Status

Claims 1-13 and 42-44 are pending in this application. Claims 1-13 and 42-44 stand rejected.

Claim 12 has been amended. No claims have been canceled or added.

Claim Rejections - 35 U.S.C. § 112

Claim 12 stands rejected under 35 U.S.C. § 112 ¶ 1 for failing to comply with the enablement requirement. Applicant has amended claim 12 in the manner suggested by the Examiner. Applicant therefore requests that the rejection of claim 12 be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 1-4 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson et al. (U.S. Pat. No. 6,122,758) in view of Elliott (U.S. Pat. App. Pub. No. 2005/0055489).

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliott and Yoshida (U.S. Pat. No. 5,928,372).

Claims 6-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliott and Feeney (U.S. Pat. No. 6,072,781).

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliott and Cao et al. (U.S. Pat. No. 5,230,044).

Claims 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliott and Webb et al. (U.S. Pat. No. 4,577,060).

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliot, Feeney, Cao, and Webb.

Claim 42 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliot, Feeney, Cao, and Webb.

Claim 43 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliott and Yoshida.

Claim 44 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in view of Elliott and Cao.

All of the rejections listed above rely on the Elliott reference, which has a filing date (September 9, 2003) that is earlier than that of the present application (September 12, 2003), but a publication date (March 10, 2005) that is later than that of the present application.

Applicant hereby submits declarations under Rule 131 from the inventors of the present application establishing that the subject matter of all of the present claims was actually reduced to practice earlier than September 9, 2003. Since this date of actual reduction to practice is earlier than the effective date of the Elliott reference, the Elliott reference is not applicable as a reference against the pending claims. Applicant therefore traverses the rejections of claims 1-13 and 42-44, all of which rely on the Elliott reference.

Applicant requests that these declarations be accepted after the Final Office Action because it was not possible to provide them earlier. The Elliott reference was only introduced as a reference in the Final Office Action. Applicant is therefore submitting these declarations as soon as was possible.

**CONCLUSIONS**

Any dependent claims not specifically discussed above depend, either directly or indirectly, from the independent claims discussed above and therefore are patentable for at least the same reason(s).

If the Examiner wishes to discuss this Response, the Examiner is requested to call the Applicant's attorney at the phone number listed below.

If this response is not considered timely filed and if a request for extension of time is otherwise absent, applicant hereby requests any extension of time. Please charge any fees or make any credits, to Deposit Account No. 08-2025.

Respectfully submitted,

/Robert Plotkin/

Robert Plotkin, Esq.

Reg. No. 43,861

November 28, 2007

Date

Robert Plotkin, P.C.  
35 Corporate Drive, 4<sup>th</sup> Floor  
Burlington, MA 01803  
Tel: (978) 318-9914  
Fax: (978) 318-9060